



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

HD:hd  
Docket No: 05912-99  
13 December 2000

MR [REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 16 and 29 November 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. Since the Board found insufficient basis to remove your failures by the Fiscal Year 98, 99 and 00 Naval Reserve Staff Lieutenant Commander Selection Boards, they had no grounds to set aside your discharge from the Naval Reserve on 30 September 1999. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

5912-99

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



5912-99

**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

5420  
PERS-911  
16 Nov 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICG [REDACTED]  
[REDACTED] CEC, USNR [REDACTED]

Ref: (a) BCNR memo 5420 PERS-OOZCB of 26 Oct 99  
(b) Title 10, U.S. Code, Section 14505

Encl: (1) BCNR File No. 05912-99

1. Per reference (a), enclosure (1) is returned with the recommendation that [REDACTED]'s petition be denied. [REDACTED] is requesting that his two failures of selection for promotion be removed and that he be allowed to continue serving in the Naval Reserve.

2. [REDACTED] was commissioned a Naval Reserve officer in June 1987 and participated in the Selected Reserve for nine years while in an active status. In November 1996, he was transferred to a Voluntary Training Unit (VTU) due to a medical condition and remained in an active status. Bureau of Medicine and Surgery later determined that [REDACTED] was Not Physically Qualified (NPQ) for retention. We subsequently assigned [REDACTED] physical risk classification 5 and advised him of his options to resolve his classification. We also advised him that he would remain in an active status during the resolution of his physical risk classification and that he could continue his active participation through correspondence courses. In response to our letter, [REDACTED] requested that the Physical Evaluation Board (PEB) review his case. The PEB subsequently reviewed his case and determined that he was physically fit to remain in the Naval Reserve. During the entire period, from transfer to the VTU to being found physically fit, [REDACTED] correctly remained in an active status. While in an active status was eligible for promotional consideration. He was considered and failed of selection for promotion by the FY-98 and FY-99 Inactive Duty Lieutenant Commander Staff Corps Selection Boards.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]  
[REDACTED] USNR, [REDACTED]

3. Per reference (b), a lieutenant who has at least twice failed of selection for promotion and has completed his eight-year military service obligation must transfer to the Retired Reserve, if eligible, or be honorably discharged. Because [REDACTED] had earned only nine years of qualifying service he was not eligible for transfer to the Retired Reserve and, therefore, was honorably discharged from the Naval Reserve on September 30, 1999.

4. Although in an active status [REDACTED] did not actively participate in the Naval Reserve through correspondence courses during the entire medical evaluation process. Additionally, after the PEB found him physically qualified for retention, he did not take the initiative to contact his local Naval Reserve Center, but instead waited several months until they contacted him. He was also entitled to address his status to the selection boards considering him for promotion but he has not indicated he did so. Had the above actions taken place, the promotion boards might have had a better picture of his intentions to continue a career in the Naval Reserve.

5. In review of this case, we feel that [REDACTED] as not presented any information that indicates an error or injustice occurred. He was correctly notified of his medical condition, advised of his rights, and exercised his options to have his case reviewed by the PEB. He apparently was not aware that during this time he was eligible and would be considered for promotion when due. Had he taken a more aggressive approach and completed correspondence courses, re-affiliated with a unit at an earlier date, or communicated with the promotion boards, the outcome may have been different. Accordingly, we recommend LT [REDACTED] petition be denied.

6. My point of contact is [REDACTED] at  
( [REDACTED] )

[REDACTED]  
Director, Naval Reserve  
Personnel Administration Division



**DEPARTMENT OF THE NAVY**  
**NAVY PERSONNEL COMMAND**  
**5720 INTEGRITY DRIVE**  
**MILLINGTON TN 38055-0000**

5420  
PERS-86

NOV 29 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL  
RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENT AND RECOMMENDATIONS IN CASE OF LT  
[REDACTED] USNR [REDACTED]

Encl: (1) BCNR File 05912-99 w/Service Record

1. We are returning enclosure (1) with the following  
observations and recommendation that relief be denied.

2. [REDACTED] was properly considered by the FY-98, FY-99 and  
FY-00 Naval Reserve Lieutenant Commander Civil Engineer Corps  
promotion selection boards and was not selected. [REDACTED]  
communicated in writing with the FY-98 promotion selection board.  
[REDACTED] is aware not only of his status, but also of his  
board eligibility. Specific reasons for his failures of select  
are not available since board proceedings are sensitive in nature  
and records of deliberations are not kept. It is our opinion his  
record simply was not competitive enough when viewed within the  
numerical constraints placed on the boards. We recommend  
disapproval of his request.

[REDACTED]  
Director, Reserve Officer  
Promotions, Appointments, and  
Enlisted Advancement Division